

Department of Natural Resources and Conservation
Budget Analysis Changes – Water Resources Division

EXHIBIT 3
DATE 1-17-11
HB Section C

Water Adjudication Fund Appropriation Limits

The legislature established in statute a limit on expenditures for the Water Adjudication Program from FY 2006 through FY 2015. The intent of this limitation was to allow the fund to be used for adjudication activities and to provide resources for the five years of estimated water court work after the on-the-ground portion has been completed.

Figure 1 compares the actual, appropriated, and requested amounts with the statutory limit that has been inflated 3 percent per year. As shown, the statutory limit is exceeded in FY 2008 through FY 2013. The cumulative effects are not negative until FY 2009 because expenditure levels in FY 2006 and FY 2007 were less than the statutory amount. The cumulative amount increases dramatically in FY 2010 when approximately \$2.0 million was legislatively transferred to the natural resources operations fund to assist with a funding shortage.

Figure 1 :Department of Natural Resources & Conservation
Water Adjudication Fund Statutory Limit and Disbursements

| Fiscal Year | Limit | Disbursements | Difference | Cumulative |
|-------------|-------------|---------------|-------------|---------------|
| *2013 | \$3,197,672 | \$3,239,095 | (\$41,423) | (\$2,279,120) |
| *2012 | 3,104,536 | 3,114,010 | (9,474) | (2,237,697) |
| *2011 | 3,014,113 | 3,504,904 | (490,791) | (2,228,223) |
| 2010 | 2,926,323 | 5,090,934 | (2,164,611) | (1,737,432) |
| 2009 | 2,841,090 | 2,910,764 | (69,674) | 427,179 |
| 2008 | 2,758,340 | 2,784,071 | (25,731) | 496,853 |
| 2007 | 2,678,000 | 2,437,545 | 240,455 | 522,584 |
| 2006 | 2,600,000 | 2,317,871 | 282,129 | 282,129 |

* 2011 Appropriations

*2012 & 2013 Request

Figure 2 below provides a summary of the water adjudication fund and the changing fund balance through FY 2015. At the end of FY 2015 if present expenditure are inflated by 3% per year, the Water Court would have approximately \$1.8 million to complete five years of work. The amount could be different depending on the amount of interest earned and the actual expenditures from the fund. The issue for the legislature is whether the proposed executive budget will negatively impact the legislature's ability to fund the Water Court after on- the-ground work is completed. To address this issue, the amount of funding coming from the water adjudication fund or would need to be mitigated or another source of revenue found.

Figure 2: Department of Natural Resources and Conservation
Water Adjudication Fund (02431)

| | Actual FY 2010 | Appropriated FY 2011 | Executive Request FY 2012 | FY 2013 | LFD Estimate FY 2014 | FY 2015 |
|--------------------------------|---------------------|-------------------------|------------------------------|--------------------|-------------------------|--------------------|
| Beginning Balance | \$22,839,014 | \$17,817,765 | \$14,434,861 | \$11,442,851 | \$8,325,756 | \$5,111,488 |
| <u>Expenditures</u> | | | | | | |
| Judiciary - Water Court | 548,294 | 562,870 | 672,414 | 863,484 | 889,389 | 916,070 |
| DNRC -Water Resources | 2,363,493 | 2,857,040 | 2,295,331 | 2,227,572 | 2,294,399 | 2,363,231 |
| DNRC - Centralized Services | <u>114,994</u> | <u>84,994</u> | <u>146,265</u> | <u>148,039</u> | <u>152,480</u> | <u>157,055</u> |
| Total Expenditures | 3,026,781 | 3,504,904 | 3,114,010 | 3,239,095 | 3,336,268 | 3,436,356 |
| <u>Revenues</u> | 69,671 | 122,000 | 122,000 | 122,000 | 122,000 | 122,000 |
| Transfer Out | (2,064,139) | 0 | 0 | 0 | 0 | 0 |
| Ending Fund Balance | <u>\$17,817,765</u> | <u>\$14,434,861</u> | <u>\$11,442,851</u> | <u>\$8,325,756</u> | <u>\$5,111,488</u> | <u>\$1,797,132</u> |

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Options

- Reduce appropriation authority from the water adjudication fund
 - Request a 5% reduction plan from the agency for FY 2012 in order to evaluate the risk of further reductions to the program.
- Transfer revenue via legislation from another state special fund, such as Oil and Gas ERA (see program 22) to increase the fund balance

DP 2407 should be DP 55247. This decision package was part of the Governor's 5% reduction plan and was inappropriately renumbered.

Department of Natural Resources and Conservation
Budget Adjustments

From the Governor's December 15th Adjustment:

2324 – Resource Development Bureau Funding Switch – This decision package shifts \$27,979 in FY 2012 and FY 2013 of funding for the resource development bureau from the treasure state endowment fund to the natural resource operations account. This adjustment is due to a change in 90-6-701, MCA that was passed by the 61st Legislature which prohibits DNRC from receiving interest from the treasure state endowment fund for administrative purposes. The natural resource operations account may be used for this purpose.

| | | |
|-----------------------------------|----------|----------|
| 02270 Treasure State Endowment | (27,979) | (27,979) |
| 02576 Natural Resources Operating | 27,979 | 27,979 |